Carol M. Browner, Administrator
Environmental Protection Agency

Remarks Prepared for Delivery
National Press Club
Washington, D.C.
October 3, 2000

Good afternoon. Thank you Jack for that introduction. And thank you all for coming.

Two important things happen on Nov. 7 that could have long-range implications for our nation's environmental and public health protections.

First, of course, are the elections. Millions of voters will go to the polls and choose a new President and Congress. Differences have been defined. And now choices have to be made.

That is up to the voters. Do they want an Administration that puts the environment and public health at the forefront of its initiatives? And do they want a Congress that agrees?

But just as important -- although tucked out of the glare of the political debate -- is a case that will be heard by the Supreme Court. This decision will be made by nine justices -- but could echo for generations in areas of public health and environmental, consumer and workplace protection.

This case will decide Congressional authority to set public policy and the executive branch's ability to carry those policies out. It will also decide if we are going to subject the health and safety of our children, our seniors -- and others among our most vulnerable -- to the outcome of an economic cost-benefit analysis, as opposed to the best available science.

How did we get here?

In 1997, the Clinton-Gore Administration proposed sweeping new standards under the Clean Air Act that would guarantee clearer skies and healthier air to 125 million Americans -- including 35 million children -- by offering greater protection from soot and smog.

But -- predictably -- business and industrial interests – opposed to the tougher pollution standards they would have to comply with -- sued. And by a split decision, a U.S. Appeals Court ruled for the industries -- setting aside decades of settled law and questioning the very constitutionality of the Clean Air Act.

Why? Did the court rule our science was lacking? No. In fact, the court found the science compelling. And let me quote from their decision: "The growing empirical evidence demonstrating a relationship between [soot] and adverse health effects amply justifies establishment of new standards."

Were the regulations too costly -- too burdensome? No. The judges agreed with previous courts that have specifically held that EPA is prohibited from considering costs to industry when setting health standards.

So what was the problem?

Well, the court ruled that Congress had unconstitutionally delegated its authority to EPA when it directed the Agency to set air pollution standards. Now, this constitutional theory -- called non-delegation -- has been rejected since the dawn of the New Deal -- since the time of Franklin Roosevelt.

And as the Solicitor General will argue on Election Day before the Supreme Court, the lower court's decision flies in the face of history. It flies in the face of logic. It wipes out 65 years of Supreme Court precedent regarding Congress's constitutional authority to direct agencies to do the hard work of research and setting public health standards.

The decision also ignores 30 years of legal rulings that have specifically upheld EPA's power under the Clean Air Act to set these standards and then to enforce them.

We appealed and the Supreme Court accepted the case as Browner versus the American Trucking Association. The other side -- industry -- also appealed -- claiming that Congress specified that cost-benefit analysis should be determinant in setting public health protections. So a second was accepted as American Trucking Association versus Browner.

These cases are important. And not just for clean air and the EPA.

The section of the Clean Air Act at issue here is fairly straightforward: By act of Congress, EPA shall adopt air pollution standards requisite to protect the public's health with an adequate margin of safety based on the best available science as evaluated every five years.

The statutory language is similar to many public health, environmental, consumer and workplace laws. Congress knew that science was always learning new things and our environmental laws and public health protections needed to keep pace with scientific advancement.

Since this public health requirement became law, it has been supported and maintained by five Presidents and 15 Congresses -- none of which saw fit to revoke the responsibility given EPA to adopt and enforce strong public health standards to ensure the air we breathe is clean. They could have done so at any time. And still can.

But they didn't and they haven't

This Administration took seriously its obligation under the law to review these public health standards based on the best available science and strengthen them if needed for public health. And after looking at the data, we recommended the most sweeping change in a generation.

But only after an intense and rigorous process.

First, EPA scientists analyzed thousands of peer-reviewed scientific studies that had been published in leading journals. These studies were then synthesized and presented to the Clean Air Science Advisory Committee -- or CASAC -- an independent scientific advisory body, as required by law under the 1977 amendments to the Clean Air Act.

After holding more than 125 hours of public meetings, and based on 250 of the most relevant studies, CASAC concluded that EPA needed to set more protective standards for soot and smog.

But we didn't stop there.

Next came another 50 hours of public hearings, with 57,000 comments logged.

And we didn't stop there either.

Congress thoroughly reviewed the new standards, holding 24 hearings -- hour after hour of questions and answer -- and adopted no changes.

These new air standards were based on more scientific studies, more scientific review and more public comment than any other pollution standard in the history of this country.

And it doesn't even stop there.

The Health Effects Institute, a respected, nonpartisan, independent organization – jointly funded by the auto industry and EPA – recently re-evaluated the science and confirmed our results.

If this kind of work . . . all these scientific studies, . . . all these public hearings . . . is rejected as the best way to ensure public health protection . . . what other health, safety and consumer protections could be wiped off the books.

Workplace? Food safety? Prescription drugs? Auto safety?

If public health and safety agencies can't set and enforce standards – work they've been doing for 30, 40, 50 years – who would we look to?

Congress?

Could we really expect Congress to take over the important work of EPA, the Food and Drug Administration, the National Highway Safety Administration, the Securities and Exchange Commission and other executive agencies?

Time after time, Congress has said that it doesn't want to do this. Time after time Congress has said that after it sets broad public policy, the details of protecting the environment, protecting public health, protecting consumers, are best carried out by professionally staffed executive agencies.

In fact, one member of Congress -- a medical doctor -- said years ago during hearings on the Clean Air Act that most members of Congress didn't know the difference between a nanogram and a microgram and should let EPA experts set the standards.

In the second case, industry will argue that the primary determining factor should be the outcome of a cost-benefit analysis.

Now, we do take costs into account. But first we follow our mandate to protect public health based on the best available science. Then we look at the most commonsense, cost-effective ways to achieve those public health gains.

And the results have been impressive.

Between 1970 and 1990, the Clean Air Act produced $22 trillion in benefits, at the cost of half a trillion in compliance costs. That's a pretty good return on investment. Especially when the payoff is reflected in the clear eyes and pure lungs of healthy children.

Over the past seven and a half years, this Administration has also put in place comprehensive protections of our air, land, water and food . . . and we have the healthiest economy in our nation's history.

Cost benefit analysis can be a valuable tool. But let's be clear that it raises difficult questions. Whose costs? Whose benefits?

For example, if history is any guide, initial industry estimates of the cost to reduce their pollution are frequently vastly overstated.

A good example is our successful acid rain program. Industry estimated that the pollution reduction required would cost $1,000 a ton. But it came in at a fraction of that. – $100 to $200 a ton.

Cost benefit analysis also requires a price on the health of some of our most vulnerable.

Is the health of a child in a crumbling neighborhood worth less than the life of a suburban child?

Is the health of our seniors -- the people who fought in our wars and handed us our prosperity -- worth less than a younger adult just entering the work force?

Are people with asthma or other breathing disorders just out of luck if the numbers don't add up?

Is it fair to subject their health to a comparison of the costs industry will face in controlling pollution? Do we really want our level of public health protections to be dictated by such economic calculations, rather than good science?

If the day comes when we find ourselves subjecting the health protections of our children and our most vulnerable citizens to the outcome of cost-benefit analysis -- literally putting a price on their heads -- we will have dishonored our past and devalued our future.

As I look to the future of public health and environmental protection, there are two matters of paramount importance.

One: We need a set of modern, strengthened environmental laws, which requires on open public debate and an engaged Congress.

Two: We have to meet the challenge of climate change.

This country has always been best served when Congress -- rather than cut late-night, backroom deals for the special interests – in the light of day sets public policy and frames our environmental laws.

Unfortunately, what we have seen recently is a lack of leadership and commitment to engage responsibly.

An engaged Congress banned lead from gasoline to protect our children. It addressed acid rain and the depletion of the ozone layer from CFCs. It stopped midnight dumpers and found ways to address the newly discovered toxic waste sites like Love Canal.

It did so not because we had all the definitive answers at the time, but because we had a consensus which said that progress was critical and delay unacceptable. And we had faith that our democratic process would provide a fair, orderly and inclusive framework for meeting the standards and achieving our goals. Those who had to live with environmental policy decisions – people, communities and industries – became active participants in those decisions.

Some of our most important environmental laws have not been revisited for a decade or more.

It has been 10 years since the last real Congressional debate on the Clean Air Act. It has been 13 years since Congress revised the Clean Water Act. And it has been 14 years since Congress revisited Superfund.

Times have changed. Our present environmental challenges don't lend themselves easily to yes or no answers. We need modern, flexible laws that allow us to keep pace with new discoveries and new scientific understandings and allow us to take the proper, commonsense steps to protect our environment and public health.

Thomas Jefferson said:

"I am not apt to be alarmed at innovations recommended by reason. But rather by those whose interests or prejudices shrink from the advance of truth and science."

Global warming . . . climate change . . . is not some distant challenge. It is here today. More than 2,000 of the world's experts on the global environment have told us what to expect.

Sea levels will rise. Insect-borne diseases like malaria will spread. Storms will intensify. Skin cancers will rise. And now-productive farmland will shrivel and fail.

We cannot wait to see every single one these predictions become absolutely reality before we act because then it will be too late.

We cannot wait for a thousand -- or a hundred thousand -- or a million data points to be verified.

I have a lot of respect for engineers. I work with a lot of them. But I have yet to meet one who can reverse a rising sea.

Confronting these problems will require a new level of political will -- from the new Administration, for the Congress and the business community. From each and every one of us.

It will require scientific leadership -- leadership that goes from community to community . . . state to state . . . and crosses national boundaries.

Yes, the problems are daunting. But we are not doomed.

We are challenged. But challenges are something we have always risen to.

At the end of the 19th Century, the Patent Commissioner told Congress that the Patent Office should be closed because everything that was ever going to be invented had already been invented.

Boy did he get that wrong.

The century that followed -- the 20th Century -- is often referred to as the American Century. And why not? Over that 100-year span, Americans both as a society and as individuals put on a display of inspiration, ingenuity and innovation unparalleled in world history.

Our scientists have peered into the inner workings of the atom and out to the edge of the universe and the beginning of time itself.

American inventors, tinkering in garages and workshops, invented everything from the airplane to the personal computer.

We have nearly eradicated childhood diseases like polio and measles because, not only did we discover vaccines, but our society wisely decided that these medical miracles should be available to all our children.

This is a nation that has long looked toward the edge -- toward the boundaries of what was knowable -- and what was yet to know -- what was doable -- and what some thought was undoable and said: "We can another step. We can and will go farther."

Listen to President John F. Kennedy's call to leadership in 1962.

"We choose to do these things not because they are easy, but because they are hard . . . because the goal will serve to organize and measure the best of our energies and skills . . . because the challenge is one we are willing to accept, one we are unwilling to postpone, and one which we intend to win."

Time and time again, we have met challenges and we have mastered them -- like putting a man on the moon. And it's time to do it again. This time not to explore our distant moon, but rather to protect our earth -- our home -- for ages to come.

Thirty years ago, many thought environmental protection was something we could put on the national "to-do" list -- work the problem -- solve it -- and then check it off and say: "Job well done. The environment and public health is protected."

Now we know it doesn't work that way.

Protecting the environment is a duty we hold in perpetuity. Each generation adds to the foundation. But finality is an illusion -- almost like parallel lines meeting at the horizon. It doesn't happen.

But, still, we need to look to the horizon and beyond, because that is where the solutions to our new challenges lie. As our reach should exceed our grasp, so must our vision extend beyond plain view.

Meeting challenges. It's our debt to the past. Our duty to the future. And that makes it our mission in the present.

Thank you.